

AMENDED IN ASSEMBLY JUNE 29, 2000
AMENDED IN ASSEMBLY AUGUST 24, 1999
AMENDED IN SENATE MAY 19, 1999
AMENDED IN SENATE APRIL 26, 1999
AMENDED IN SENATE MARCH 4, 1999

SENATE BILL

No. 128

Introduced by Senator Polanco
(Coauthor: Assembly Member Migden)

December 22, 1998

An act to ~~amend Section 3041 of the Penal~~ *add Sections 54233 and 54233.1 to the Government Code*, relating to imprisonment.

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as amended, Polanco. ~~Prisoners~~—*Prisons: San Quentin.*

Existing law provides for the establishment and operation of a state prison at San Quentin in Marin County, and provides that all death row inmates shall be incarcerated therein and all judgments of death shall therein be executed.

This bill would direct the Department of Corrections to transfer, by January 1, 2002, ownership of the property and facilities of the state prison at San Quentin to the Department of General Services, and would declare that property and facilities to be surplus land. This bill would direct the Department of General Services to establish and support a

task force of specified state and local representatives to determine the appropriate use and disposition of the property, and to develop a land use master plan to be considered for implementation by the department. This bill would also require the Department of Corrections to develop, by June 30, 2001, a proposal for the transfer of inmates housed in the state prison at San Quentin, subject to specified criteria.

~~Existing law provides that, for persons sentenced to terms of imprisonment other than under the determinate sentencing law, the Board of Prison Terms shall meet with the inmate during the 3rd year of incarceration to review the inmate's file, and to make recommendations.~~

~~This bill would require the board to discuss with the inmate what the subsequent process will be for determining the inmate's eligibility for parole, and to prepare an inmate performance plan for the inmate.~~

~~Existing law provides that one year prior to the inmate's minimum eligible parole release date, a panel of the Board of Prison Terms shall meet with each inmate and normally set a parole release date.~~

~~This bill would provide that if the board determines that an inmate is not suitable for parole, it shall state in writing specifically why the inmate is being denied parole.~~

~~Existing law requires the panel or board to set a release date unless it makes certain determinations.~~

~~This bill would additionally provide that the board shall set a release date if the board finds that the inmate is making satisfactory progress on his or her inmate performance plan, unless the board makes certain findings. The bill would require the board to specify in writing the reasons for its determination.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares as~~
 2 ~~SECTION 1. The Legislature finds and declares as~~
 3 ~~follows:~~

1 (a) San Quentin State Prison, built in 1852 and the
2 oldest prison in California, is no longer cost-effective to
3 maintain and operate. Hundreds of millions of dollars
4 have been spent to retrofit the prison and upgrade its
5 infrastructure just to maintain minimum structural
6 integrity. In addition, millions of dollars are requested
7 every year to bring the prison up to modern standards.

8 (b) San Quentin State Prison was recently designated
9 the most seismically unsafe building in California.

10 (c) Any long-term land-use plans for the property at
11 San Quentin State Prison shall be consistent with local bay
12 area regional planning.

13 SEC. 2. Section 54233 is added to the Government
14 Code, to read:

15 54233. (a) The Department of Corrections shall
16 transfer the ownership of the property, including all
17 facilities, comprising the California State Prison at San
18 Quentin, located in Marin County, to the Department of
19 General Services no later than January 1, 2002. Pursuant
20 to Section 11011 of the Government Code, the
21 Legislature finds and declares this property, including all
22 facilities, to be surplus land.

23 (b) The Department of General Services shall
24 establish and support a task force of state and local
25 representatives to recommend the appropriate use and
26 disposition of the property. The task force shall include
27 the Senate and Assembly representatives with districts
28 that include San Quentin State Prison, the chair of the
29 joint legislative committee with primary oversight of
30 prison issues, one representative from the City of Corte
31 Madera, one representative from the City of Larkspur,
32 one representative from the City of San Rafael, one
33 representative from the City of Tiburon, three
34 representatives from the County of Marin, and one
35 representative from the City of San Francisco. The task
36 force shall develop and recommend a land use master
37 plan which the Department of General Services shall
38 consider for implementation. The master plan may
39 include identifying a portion of the land as an historic

1 landmark, which portion may be transferred to the
2 Department of Parks and Recreation for maintenance.

3 SEC. 3. Section 54233.1 is added to the Government
4 Code, to read:

5 54233.1. (a) By June 30, 2001, the Department of
6 Corrections shall develop a proposal for the transfer of
7 inmates housed in San Quentin State Prison to alternative
8 sites consistent with the criteria identified in subdivision
9 (b) of this section.

10 (b) The Department of Corrections shall consider the
11 following criteria in developing the inmate transfer
12 proposal:

13 (1) No property at San Quentin State Prison may
14 continue to be used to house inmates.

15 (2) Nothing in the proposal may exacerbate the unsafe
16 working conditions at overcrowded state facilities.
17 Excluding inmates housed on death row, no inmate may
18 be transferred to any state run facility operating at or
19 above 160 percent of design capacity.

20 (3) Any new capacity deemed necessary to meet the
21 criteria set forth in this measure must be operated at least
22 10 percent below the average state cost of incarceration.
23 follows:

24 ~~(a) The primary purpose of the Department of~~
25 ~~Corrections and the state prison system is to promote and~~
26 ~~enhance public safety.~~

27 ~~(b) Providing inmates early advice and direction~~
28 ~~regarding how each of them can best prepare themselves~~
29 ~~for living safely upon parole will greatly diminish the~~
30 ~~probability that they will revictimize the public once~~
31 ~~released.~~

32 SEC. 2. ~~Section 3041 of the Penal Code is amended to~~
33 ~~read:~~

34 ~~3041. (a) In the case of any prisoner sentenced~~
35 ~~pursuant to any provision of law, other than Chapter 4.5~~
36 ~~(commencing with Section 1170) of Title 7 of Part 2, the~~
37 ~~Board of Prison Terms shall meet with each of those~~
38 ~~inmates during the third year of incarceration for the~~
39 ~~purposes of reviewing the inmate's file, making~~
40 ~~recommendations, and documenting activities and~~

1 ~~conduct — pertinent — to — granting — or — withholding~~
2 ~~postconviction credit. Specifically, the board shall discuss~~
3 ~~with the inmate what the subsequent process will be for~~
4 ~~determining the inmate's eligibility for parole, including~~
5 ~~the timeline and procedures of parole eligibility hearings,~~
6 ~~what the inmate's minimum eligible release date is and~~
7 ~~the significance of it, and what factors are important in~~
8 ~~finding an inmate eligible for parole. At that meeting, the~~
9 ~~board shall discuss and prepare an inmate performance~~
10 ~~plan for the inmate. In the case of an inmate who has~~
11 ~~already had the meeting required by this section, the~~
12 ~~board shall prepare an inmate performance plan at the~~
13 ~~next regularly scheduled parole hearing or other meeting~~
14 ~~set for that inmate. The inmate performance plan shall~~
15 ~~consist of specific requirements that the board~~
16 ~~determines the inmate must meet in order to be eligible~~
17 ~~for parole. These requirements may include participation~~
18 ~~in educational classes, job skills training, substance abuse~~
19 ~~classes, life skills classes, victim offender awareness~~
20 ~~programs, or other activities that are relevant to the~~
21 ~~inmate's personal and criminal history. The plan may~~
22 ~~emphasize the importance of offender accountability,~~
23 ~~victim restitution, and remaining free of discipline~~
24 ~~problems, including abstention from involvement with~~
25 ~~prison gangs or other activities that lead to rules~~
26 ~~violations. The requirements shall be realistic,~~
27 ~~achievable, and relevant to that inmate. One year prior~~
28 ~~to the inmate's minimum eligible parole release date a~~
29 ~~panel consisting of at least two commissioners of the~~
30 ~~Board of Prison Terms shall again meet with the inmate~~
31 ~~and shall normally set a parole release date as provided~~
32 ~~in Section 3041.5. The release date shall be set in a manner~~
33 ~~that will provide uniform terms for offenses of similar~~
34 ~~gravity and magnitude in respect to their threat to the~~
35 ~~public, and that will comply with the sentencing rules~~
36 ~~that the Judicial Council may issue and any sentencing~~
37 ~~information relevant to the setting of parole release dates.~~
38 ~~The board shall establish criteria for the setting of parole~~
39 ~~release dates and in doing so shall consider the number~~
40 ~~of victims of the crime for which the prisoner was~~

~~1 sentenced and other factors in mitigation or aggravation
2 of the crime. If the board determines that an inmate is not
3 suitable for parole, it shall state in writing specifically why
4 the inmate is being denied parole, and what he or she
5 must do to become suitable for parole, consistent with his
6 or her inmate performance plan. At least one
7 commissioner of the panel shall have been present at the
8 last preceding meeting, unless it is not feasible to do so or
9 where the last preceding meeting was the initial meeting.
10 Any person on the hearing panel may request review of
11 any decision regarding parole to the full board for an en
12 banc hearing. If a review is requested, a majority vote of
13 the full Board of Prison Terms in favor of parole is
14 required to grant parole to any prisoner.~~

~~15 (b) The board shall set a release date if the board finds
16 that the inmate is making satisfactory progress on his or
17 her inmate performance plan, unless it determines that
18 the gravity of the current convicted offense or offenses,
19 or the timing and gravity of current or past convicted
20 offense or offenses, is such that consideration of the public
21 safety requires a more lengthy period of incarceration for
22 this individual, and that a parole date, therefore, cannot
23 be fixed at this meeting. The determination of suitability
24 for parole shall be based on the record as a whole,
25 including any performance or psychological evaluations
26 included in the inmate's file. The board shall specify in
27 writing the reasons for its determination.~~

~~28 (c) For the purpose of reviewing the suitability for
29 parole of those prisoners eligible for parole under prior
30 law at a date earlier than that calculated under Section
31 1170.2, the board shall appoint panels of at least two
32 persons to meet annually with each of those prisoners
33 until the time that the person is released pursuant to those
34 proceedings or reaches the expiration of his or her term
35 as calculated under Section 1170.2.~~

~~36 SEC. 3. It is not the intent of the Legislature, in
37 enacting the amendments in Section 2 of this act, to
38 require any additional hearings for an inmate, or to
39 require any additional personnel than are already
40 assigned to perform the hearings. Rather, it is the intent~~

1 ~~of the Legislature that those inmate performance plans~~
2 ~~be one additional requirement in the process that is~~
3 ~~already occurring to evaluate an inmate's suitability for~~
4 ~~parole.~~

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